



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

5W

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,874	02/26/2002	Shozo Kawanishi	ACO 301	8699
23581	7590	06/16/2004	EXAMINER	
KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL STREET SUITE 200 PORTLAND, OR 97204			KREMER, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/018,874	Applicant(s) KAWANISHI, SHOZO	
	Examiner Matthew J Kremer	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 5-14, 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15 is/are rejected.
- 7) ☒ Claim(s) 18-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/18/01; 04/26/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-4, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,579,782 to Masuo (cited by Applicant). Masuo teaches a device for determining visceral fat by inputting a ratio of waist (abdominal girth) to hip (gluteal girth). (column 4, lines 3-7 of Masuo). Masuo teaches a data processing unit (column 3, lines 40-47 of Masuo) and a display unit 16 (Fig. 5 of Masuo). In regard to claim 3, impedance electrodes (column 3, lines 31-39 of Masuo) are used and body fat ratios are determined (column 3, lines 53-59 of Masuo). In regard to claim 4, a regression formula is used. (column 16, lines 32-50 of Masuo). In regard to claim 15, Masuo teaches the use of impedance electrodes (column 3, lines 31-39 of Masuo), determining body fat ratios (column 3, lines 53-59 of Masuo), and a display unit 16 (Fig. 5 of Masuo).

Allowable Subject Matter

3. Claims 18-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter. In regard to claim 18, Masuo does not teach or suggest that the estimation is performed with the additional correction term compensating for age and/or sex. In regard to claim 19, Masuo does not teach or suggest a plurality of ranking levels defined by a plurality of standard values that are provided in advance for the abdominal visceral fat cross sectional area VA and that the estimated value of the abdominal visceral fat cross sectional area VA given by the calculation being displayed on the display device is in conformity with the ranking levels. In regard to claim 20, Masuo does not teach or suggest that the abdominal girth is provided by an abdominal girth at the fourth lumbar vertebrae of the patient, and the gluteal girth is provided by a girth measured generally at the thickest portion on the buttocks of the patient. In regard to claim 21, Masuo does not teach or suggest size-measuring means for measuring the abdominal girth and the gluteal girth.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kremer whose telephone number is 703-605-0421. The examiner can normally be reached on Mon. through Fri. between 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Beth Jones can be reached on 703-308-3400. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew Kremer
Assistant Examiner
Art Unit 3736



MARY BETH JONES
ACTING SUPERVISORY PATENT EXAMINER